Support Strategies for Management Challenges

The Commission works to achieve its strategic goals by acquiring and managing efficiently and effectively its resources; by training and retaining a productive workforce; and by maximizing the production potential of all staff by using information technology effectively.

The Commission has identified the following management challenges and support strategies related to accomplishing its mission:
1. Employee training and professional development;
2. Employee recruitment and retention; and
3. Effective use of information technology.

1. Employee Training and Professional Development

1.1 Support Issue/Management Challenge

For the staff of the market surveillance, develop the skills needs more effectively to utilize the new Integrated Surveillance System.

Support Strategy

OIRM or contractor support will be needed to provide training in Access, PC-SAS, or other software that will enable surveillance economists, statisticians, and other surveillance staff to extract data from the overall surveillance database. This will enable staff to address specific questions, conduct analyses, and provide graphical, tabular, and other summaries of the data in formats that are easily understood, using software such as Microsoft Excel or PowerPoint.

1.2 Support Issue/Management Challenge

Develop understanding of complex trading systems from a technological perspective, specifically the architecture of these systems and the challenges they present from a monitoring and compliance perspective.

Support Strategy

Trading and Markets has consulted and will continue to consult with the OIRM concerning an initial review of these proposed trading systems so that before these systems can be available from within the US, appropriate safeguards are in place to protect market users and the public. The division does not intend to restrict technological innovation or to dictate particular choices of hardware or software, but only to assure that these mechanisms are operated consistently with the CEA and rules promulgated thereunder.

1.3 Support Issue/Management Challenge

Enhance staff skills in conducting audits and analyses to detect systemic problems and/or problems of individual registrants—particularly as products become more complex.

Support Strategy

The Trading and Markets program staff will continue to encourage staff to use external sources for professional training and computer support. Professional training will focus on off-exchange and derivatives prod-

ucts. Computer training will provide staff with computer alternatives to manual methods of analysis.

1.4 Support Issue/Management Challenge

Keep professionals abreast of rapid changes in the industry. Over the years, the focus of the Commission's technical oversight has changed from primarily agricultural commodities to financial products and computer-based trading.

Support Strategy

The Commission provides active support for professional development and training. Professional and support staff routinely attend a wide range of internal and external programs encompassing two broad categories: 1) relevant subject area conferences and seminars that relate to the markets and the mission of the Commission; and 2) career skill-enhancement programs addressing topics such as effective writing and computer skills.

The Commission has recently developed technical training courses in a variety of subject matter areas pertaining to the futures industry in an attempt to close the gap between agency needs and staff knowledge. A professional Training Advisory Group, with key staff members from each division and office, worked with the OHR to help determine which courses were needed. Subcommittees of subject matter experts were then formed to develop the specific content of the courses. These courses have been offered in the past on an ad hoc basis.

Divisions also sponsor their own training programs which are attended by their own staff as well as other Commission employees.

1.5 Support Issue/Management Challenge

Provide opportunities for attorneys and investigators to train and gain experience to meet the challenge of a changing trading environment.

Support Strategy

Within the past year, the Enforcement program has taken several steps to address staff training and professional development issues. In December 1998, a task force composed of attorneys and investigators was formed in order to determine what training is required by staff, to identify—and where feasible, create—training opportunities, and to ensure that these opportunities are made available to staff members at the appropriate points in their careers. As a first step, the task force surveyed the entire Enforcement staff in order to determine what types of training staff had received, what types of training were considered especially effective by staff, and the areas staff felt training was especially important. Several initiatives have resulted from the survey.

First, beginning in December 1998, staff members have presented a series of one-hour seminars to professional staff in all regions with an emphasis on staff who joined the program within the last two years. Since the series of seminars began, eight of 12 planned sessions have taken place and topics have ranged from an overview of the Commission presented by the Director and Deputy Director to several sessions ad-

dressing particular requirements of the Act and regulations and approaches to investigating certain types of conduct. Future seminars are being planned with a focus on educating staff in particular investigative approaches or techniques, unique aspects of commodity futures and options law, and a practical guide to formulating Commission recommendations and negotiating settlements. The Enforcement program plans to make the series a permanent program.

Second, the task force is developing a process by which supervisors and staff can identify each individual staff member's training needs and choose appropriate training. The task force is considering linking this with each employee's semi-annual performance review. This linkage would enable division managers to evaluate what type of hands-on experience the staff member is getting; what type of training might be employed in place of hands-on experience; and what type of training might enhance or improve a staff member's ability to perform tasks he or she already handles. The task force also aims to develop a means of tracking what types of training the employee has received and what type will be needed or desired. This process aims to ensure that training opportunities are made available in an effective and fair manner.

Third, the task force is assembling a comprehensive list of all training opportunities—both in-house and through outside vendors—available and relevant to the work of Division of Enforcement staff. The list will be organized by the position and grade level to which each opportunity is geared and will include evaluations by participants. In this way, the managers will be able to keep abreast of what opportunities are most beneficial to staff members at particular levels.

Additionally, each year the Enforcement program organizes and presents its two-day enforcement training seminar for all professional staff. The seminar typically includes panels on current developments as well as sessions designed to hone certain investigation and litigation skills. Finally, while the serial seminars discussed above and the annual training seminar provide staff with a great deal of practical, focused training, there are training needs that can only be met by outside vendors. For example, over the past fiscal year the Enforcement program has sent several staff members to a multi-day seminar on trial skills.

Through the *FY 2000 Training Plan*, OHR will assist the program offices in assessing the need for training and professional development of Commission employees and finding ways to address those needs. OHR has also enhanced information on employee training opportunities through the Internet and intranet and by providing a Commission-wide training calendar.

1.6 Support Issue/Management Challenge

Meet the training needs of newly appointed managers.

Support Strategy

The recently revised performance appraisal has tried to place greater emphasis on managerial skills by including three additional critical elements: *Effective Leadership, Developing and Counseling Staff, and Support for Diversity and EEO Programs.* OHR began to address some of these managerial training needs this year by offering a course in

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Coaching and Counseling for headquarters, New York, and Chicago as well as offering an extensive course required for all managers in *Sexual Harassment.*

In the upcoming year, OHR will work with the recently appointed Training Advisory Group to offer courses covering the basic skills necessary to manage at CFTC. Additionally, OHR will work with key officials within the Commission to devise a proposal for a systematic approach to management skills development.

1.7 Support Issue/Management Challenge

Training programs need to focus on how to best develop the Commission's staff in the five generic elements of *Knowledge of Field or Occupation, Planning and Organizing Work, Execution of Duties, Communications, and Professional Behaviors.* These are all laudable competencies, but OHR must develop tools for strengthening these skills in each employee if they are to be the measure of success in the Commission.

Support Strategy

The Commission will continue to offer courses in these areas and have formulated a committee to examine converting the OHR Learning Resource Center into a career development center.

1.8 Support Issue/Management Challenge

Provide orientation on a timely basis to new employees.

Support Strategy

OHR has formed a committee to examine its current orientation program both in terms of content and to propose a regular schedule for offering sessions beginning in FY 2000.

2. Employee Recruitment and Retention

2.1 Support Issue/Management Challenge

Recruit and retain a critical cadre of versatile attorneys to handle the Commission's diverse complex legal issues.

Support Strategy

The Office of the General Counsel conducts on-campus interviews at law schools throughout the country and works with OHR to advertise positions through the Internet and various government and legal publications as jobs become available. The Office of the General Counsel participates in the Commission's Summer Intern Program as well, through which talented second-year law students gain exposure to government agency practice and through which the Commission is assisted in its recruitment efforts. The Office of the General Counsel offers its newly hired attorneys opportunities throughout the year to participate in both private and government-sponsored continuing legal education programs and to attend industry seminars and conferences, such as the Annual Derivatives & Commodities Law Program, sponsored by the Chicago-Kent College of Law, and the Annual Law and Compliance Workshop, sponsored by the NFA. In addition, the Office of the General Counsel offers flexible work schedules and other non-monetary incen-

tives for retaining legal and support personnel. Nevertheless, the Commission's recruitment and retention efforts would benefit if its compensation structure were somewhat more competitive with that of the non-federal sector.

2.2 Support Issue/Management Challenge

Fill vacant positions timely with a diversified and retainable workforce.

Support Strategy

To advance the goal of filling vacancies promptly and successfully, OHR will try a number of new initiatives that create additional tools for use by management. As a first step, OHR has written a *Strategic Plan for Recruitment.* The mission is the plan is to institute a yearly planning process to ensure the required human resources are hired as needed to support the mission of the CFTC. The vision of the plan is for all contributors to the hiring process to work together, taking the initiative to secure the best candidates through coordinated actions, such as annual planning at the start of each fiscal year and greater participation in targeted recruitment events. One major outcome of the plan is increased efficiency of the hiring process and a reversal of the trend of consistently remaining below the Commission's allocated staff ceiling.

In addition to the plan, OHR has initiated an employee exit survey analysis to provide management with information on issues that may be affecting the retention of employees. This analysis may further impact the methods utilized in filling CFTC vacancies.

3. Effective Use of Information Technology

3.1 Support Issue/Management Challenge

Use information technology to collect electronic daily large trader reports from brokerage firms worldwide and other large volumes of data from US futures exchanges, in the most efficient, cost-effective, and secure method feasible.

Support Strategy:

OIRM will evaluate the Commission's communications software and computer hardware in relation to the needs of brokerage firms and exchanges for a fast, efficient, and secure means of transmitting large quantities of confidential data to the Commission on a daily basis. These data flow into the newly developed integrated surveillance system that supports the Commission's Market Surveillance program with a client-server architecture.

3.2 Support Issue/Management Challenge

Upgrade the civil monetary penalties database to assure Year 2000 compliance.

Support Strategy

The Division of Trading and Markets has consulted and will continue to consult with the OIRM concerning this issue. In addition, subprogram staff have attended training on Access software and have obtained manuals and other materials so that they can educate themselves in

this area. Further, recent hires have been made with this project and the necessary skills in mind.

3.3 Support Issue/Management Challenge

Ensure staff has the necessary research tools to perform productively.

Support Strategy

Trading and Markets staff use Westlaw, Lexis/Nexis, the Commodity Futures Law Reporter and similar materials to perform their assignments. These legal research materials increasingly are available in an on-line format on staff's desktop computers. The Commission's recently developed Web site and intranet are also proving useful by including texts of staff letters and links to publications such as the *Federal Register* and the *Code of Federal Regulations*.

The ability of the Office of the General Counsel to provide accurate legal advice to the Commission has been greatly enhanced by the on-line and traditional resources of the Commission library and its staff and by the on-line capabilities of individual workstations.

3.4 Support Issue/Management Challenge

Enhancement and integration of the Commission's market surveillance and financial surveillance capacity. This need is especially critical because of the greater complexity of instruments being traded and the concentration of pooled investment vehicles.

Support Strategy

The program staff will continue to enhance its financial surveillance systems. In particular, program staff will continue to rely on improved end-user computerization tools and the development of client-server database management software as such systems are implemented by OIRM.

3.5 Support Issue/Management Challenge

Improve data reporting and data collection methods to ensure compliance with the Government Performance and Results Act of 1993 without placing unnecessary administrative burdens on professional staff.

Support Strategy

A continuing challenge faced by the Enforcement program concerns its efforts to collect, organize, and access program data in a manner that both provides professional staff with information useful to investigative and litigation efforts and provides the Commission and others with a meaningful index to the program's activities and accomplishments. Counterbalanced against this challenge is the program's desire to minimize administrative burdens for professional staff whose primary activity must be the investigation and prosecution of actions against those who violate the Act and Commission regulations. Accordingly, the Enforcement program and the Commission's OIRM have embarked on a multi-faceted project to upgrade and consolidate several of the program's essential data gathering and recordkeeping systems. The bundle of projects is referred to as the Enforcement System Modernization Project (Modernization Project).

The Modernization Project will combine several existing databases into one comprehensive system that tracks matters from point of referral through preliminary investigation, investigation, and civil or administrative enforcement action. The consolidation of various databases will enable staff to more easily locate and retrieve information about investigations and cases. The consolidation will also eliminate redundant data entry by staff.

A second aspect of the Modernization Project involves providing on-line, uniform templates for certain required reports and frequently used forms. This process will provide staff with automated templates for certain tasks, speed the approval of certain administrative documents through automated circulation, and allow for extraction of data used for quarterly and annual reporting obligations. The Modernization Project is ongoing and the staffs of Enforcement and OIRM will continue to work together to address the needs of the program in this area.

3.6 Support Issue/Management Challenge

Improve staff access to internal procedures and practices.

Support Strategy

In December 1998, the Enforcement program undertook an effort to create a single, unified procedures manual and to provide the manual electronically to all staff. To address this issue, the Division formed a task force composed of attorneys and investigators and headed by the Chief Counsel of the Division. First, the task force undertook to create a flowchart of Enforcement activities from the point a lead comes into the Division, to its referral to a unit or regional office for investigation, through the investigation, filing, and conclusion of a case. Using the flowchart and taking into account already existing materials, the task force devised a detailed outline for the new manual. The task force has developed a working draft of a significant portion of the new manual and expects to have the initial chapters on-line for the use of program staff in the coming months. Drafting of the rest of the manual is ongoing.

With regard to the format of the new manual, in the past, the previous version of the Enforcement procedures manual was distributed to staff in hard copy only. The procedures were modified by distributing revised hard copies to all staff members. This method of distribution depends on staff updating their binders with the new or revised material. The task force's efforts are directed at creating a wholly electronic version of the new manual which will ensure that staff will have immediate access to the procedures and that revisions are "automatically" distributed so that staff members use the most current materials. Additionally, the task force has identified a great deal of material that can be integrated into the new manual via "hyperlinks," thus allowing staff to view related resources simply by pointing and clicking at prompts within the new manual.

3.7 Support Issue/Management Challenge

Keep pace with the growing level of requests from professionals for computer software applications development and support.

Support Strategy

The Commission uses its *Five Year Plan for Information Resources Management* to prioritize requests and insure that development resources are directed to the projects that will have the greatest benefit to the Commission. The Executive Director modifies the priorities and approves the addition of unscheduled priority projects between versions of the plan. This planning process is based upon the allocation of the time of current development staff and funding levels for contractor support. High priority projects requiring a level of effort not feasible with the resources normally allocated to systems development, such as the reengineering projects for the Integrated Surveillance System and the Exchange Database System, are planned outside the five-year plan process with coordination between the operating divisions and the Executive Director.

3.8 Support Issue/Management Challenge

Effectively manage changes in technological services provided to Commission programs and staff.

Support Strategy

The Commission uses its *Five Year Plan for Information Resources Management* to forecast likely developments and take advantage of technological changes which support the goals of the Commission. Challenges and opportunities that arise between versions of the plan are met by diverting resources from the planned projects with the approval of the Executive Director.

Methodology for Collecting, Maintaining & Analyzing Performance Data

The Commission had begun the process of documenting the various methods by which program offices collect data used to report on performance measures. Although the Commission has no reason to believe that data reported is not valid, making any representations at this point would be premature. The final objective of the Commission is to establish satisfactory performance measures and annual performance goals. Once accomplished, attention will be focused on verifying and validating performance information.

Market Surveillance, Analysis & Research

Statistics concerning the large trader and exchange data collection systems are computer-generated based on actual reports processed. Similarly, counts on numbers of markets trading, reports prepared, and designation and rule change applications analyzed and completed can be derived from computer records. Performance data from regional offices and headquarters is collected quarterly and combined into an overall report reflecting performance data included in the Annual Performance Plan. Trends in volume, open interest, and number of designations approved are used to project workload statistics for future periods. Compliance factors, such as audits and letters to traders and reporting firms, are reviewed in the context of total reports processed for anomalous relationships. The number of market surveillance reports and special reports are viewed in the context of the number of markets trading and analyses that are presented at Commission meetings. These and comparisons with indicators from previous periods are used to verify data accuracy.

Trading & Markets

Regulatory Development and Registration

The Regulatory Development and Registration subprogram compiles data on discrete events, such as letters written, rules promulgated or revised, and Registration Working Group meetings held. It should be noted that statistics on numbers of letters issued or rules promulgated may not reflect the complexity of any particular matter or the resources necessary to address one issue versus another issue.

The subprogram is also responsible for the collection of civil monetary penalties. When a civil monetary penalty is imposed by the Commission or by a court, a file is established in the computerized database maintained by the subprogram for the new receivable. Although the penalty amounts assessed are payable to the US Treasury Department, the payments by check, money order, or wire transfer generally are received in the first instance by the subprogram, recorded in the database and forwarded to the US Treasury Department. Since some debtors direct their complete or partial payments to DOJ, DOJ informs the subprogram through a government computerized network of payments received so that the subprogram may record these payments in its own database. If payments are delinquent, charges for interest, late payment, and administrative fees begin to accrue. These charges are tracked in the database along with the outstanding principal. Delinquent debtors may be

referred to the DOJ for enforced collection of their civil monetary penalties. In accordance with the Debt Collection Improvement Act of 1996, the Commission worked out a letter of agreement during FY 1999 with the US Treasury Department to permit the Commission to refer delinquent debts to the US Treasury Department for cross-servicing, administrative offset, and wage garnishment. When the US Treasury makes direct collections under this program, it informs the Commission so that all payments made in satisfaction of civil monetary penalties assessed under the CEA may be recorded in the Commission's database.

The subprogram staff reviews civil monetary penalty collections on at least a quarterly basis and makes reports thereon to other Commission staff units. Subprogram staff also are required to submit an annual report to US Treasury Department concerning delinquent debts and an annual internal report to the Commission on collection activities. As circumstances warrant, subprogram staff also review individual cases to determine if and what additional collection steps are appropriate. Note that, as a federal law enforcement agency, the Commission must impose and seek penalties in accordance with statutory requirements and in conformity with precedents for similar wrongdoing. In some instances, the entities that are penalized have no financial resources, making collection difficult.

In addition to the Commission's own internal reviews of CMP collections and the annual report to the US Treasury Department, the GAO recently completed a multi-year study of the collection of civil monetary penalties by the Commission, the SEC, and the SROs in the futures and securities industries. In its November 1998 report, the GAO concluded that the Commission and the SEC collected a substantial portion of the total dollar amount of the fines they imposed (over 80 percent for the time period under review) and took appropriate action when penalties could not be collected.

Contract Markets

The Rule Review Unit calculates the performance data included in the APP by querying its automated database, the Designation and Rule Tracking (DART) system. Among other pieces of data, the DART system records, for each rule submission, the date received, the submission's ultimate disposition, and the date of disposition.

The Rule Enforcement Unit's performance data is continuously collected from regional and headquarters staff and entered into separate databases maintained at headquarters for each performance category. Staff retains hard copies.

Enforcement

The performance data reported by the Enforcement program in the APP come from a variety of sources. For example, certain basic information—such as the numbers of investigations and cases opened, closed, and pending—is collected and tabulated on a routine basis by staff in the headquarters office. Case status information is then cross-checked on a monthly basis against status reports submitted by staff to the Director's office. This information is adapted for use in the APP (i.e., indi-

vidual matters are identified by the goal and activity under which they most reasonably fall).

Other data that are routinely tracked by Enforcement staff and then adapted for use in the APP include sanctions in enforcement matters. In enforcement cases, sanctions can be assessed and/or affirmed by Commission administrative law judges; by the Commission in settlement or on appeal of an ALJ's decision; by federal district courts hearing injunctive matters; by federal circuit courts of appeal on appeals of district court opinions or Commission opinions; and by the US Supreme Court in appeals of decisions by circuit courts of appeal. Commission staff in the Enforcement program's Office of the Director regularly track such results and monitor them in order to determine when sanctions become final and effective. Staff in the Office of the Director receive notice of sanctions assessed either from the Office of Proceedings (in administrative actions and appeals of administrative actions) or from the team conducting the litigation (in injunctive actions and actions before circuit courts of appeal). Sanctions information is circulated to Associate Directors and Regional Counsel on a monthly basis for verification.

Finally, other data reported by the Enforcement program—particularly the data reflecting investigation and litigation tasks—come directly from the headquarters units and regional offices performing the work. Staff from each unit and regional office are required to submit to the Office of the Director monthly status reports on all pending matters. In conjunction with these monthly submissions, staff are required to fill out an electronic form which, when completed, provides specific, APP-related information for each matter. The information is transferred to a spreadsheet program by staff in the Office of the Director; can be tabulated on a monthly, quarterly, and annual basis; and is adapted for use in the APP. While every effort is made to ensure that the data obtained from the investigation/litigation teams is accurate, the integrity of this data is ultimately and primarily the responsibility of the reporting teams.

Office of the General Counsel

The Office of the General Counsel uses an automated document tracking system called "repcase" to collect, maintain, and analyze performance information for each reparation, enforcement, exchange review, and NFA case on appeal to the Commission. Statistical data is collected and reported by the total number of: 1) cases resolved (e.g., final disposition, remand, interlocutory disposition, and miscellaneous disposition); 2) matters received (e.g., merits appeals, interlocutory appeals, and miscellaneous); 3) matters pending; and 4) drafts pending before the Commission.

The Office of the General Counsel collects and maintains data on a monthly, quarterly, and annual basis. A paralegal specialist uses this information to prepare monthly, quarterly, and annual reports, which are used by management to monitor and analyze all cases on appeal to the Commission.

- *Monthly Opinions Report.* At the end of each month, the paralegal specialist prepares a monthly report for the General Counsel's signature. The information reported includes all activity (i.e., disposi-

tion of cases, matters received, and matters pending) in the Opinions Program which occurred during the month.

- *Quarterly Statistical Report.* At the end of each quarter, the paralegal specialist prepares a statistical summary which reflects activity in the program during that quarter of the fiscal year. The report indicates by category the number of cases pending at the beginning of the quarter, the number of cases received during the quarter, disposition of cases during the quarter, and the number of cases pending at the end of the quarter.

- *Annual Report.* At the end of each fiscal year, the paralegal specialist prepares a statistical summary which shows activity in the program during the fiscal year. The report lists by category the number of matters received, Commission orders and opinions issued, and the number of cases pending at the end of the year. All issued opinions and orders are maintained in binders filed alphabetically, monthly, quarterly, and annually.

In preparation of these reports, the paralegal specialist reviews the statistical data provided by the repcase tracking system, as well as issued opinions and orders maintained in the binders. This staff person also maintains a separate tracking system of the cases on appeal, which serves as a check against the data provided by the automated tracking system. All reports are reviewed and signed-off on by the General Counsel and/or Deputy General Counsel for the Opinions and Litigation Section.

Executive Direction & Support

Office of Information Resources Management
The Commission will verify and validate that:

- The Integrated Surveillance System reengineering project is completed by comparing the objectives of the project to the products of the project. If the project is not complete, then the products will not support the Market Surveillance program and the current system will remain essential.

- Additional automated systems to improve work output and quality are delivered to the Division of Enforcement by examining the systems available to the Division at the end of the Fiscal Year and determining whether new systems have actually been made available.

- The development of a replacement for the Exchange Database System with sufficient flexibility to handle both traditional and emerging electronic markets has been initiated by examining and evaluating project deliverables received and accepted by OIRM.

Office of International Affairs
OIA collects all performance information on an Access program computer database. All projects, including telephone requests to individual attorneys, are given a specific database identifying number when assigned and are designated as "open" until final action is completed. "Key word" reference information has been standardized for actions that correspond to certain of the performance indicators used in the budget

process. When a project is completed, staff close out the file, such action is recorded on the database and a paper copy of the project work product is filed by year and file code number. As a result, the OIA database captures all work product and permits immediate computer-searchable access to the status of the project and to the paper copy. The database also is used by management to track the status of projects; projects can be searched for all pending projects by date and by staff person.

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